

JENNIFER A. BANDLOW, ESQ. (SBN 265757)

Email: jbandlow@socaljusticelawgroup.com

GEORGE D. TOURKOW, ESQ. (SBN 331070)

Email: gtourkow@socaljusticelawgroup.com

SOCAL JUSTICE LAW GROUP, P.C.

5670 Wilshire Boulevard, 18th Floor

Los Angeles, California 90036

Telephone: (323) 723-3120

Facsimile: (310) 734-1710

Attorneys for Plaintiff, DEREK MATTHEWS

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DEREK MATTHEWS, an individual

Plaintiff,

vs.

DEMITA PINCHBACK, an
individual; WARDEN JEROME
PRICE, an individual; OFFICER B.
SYSMOBATH, an individual;
OFFICER A. TOUT, an individual;
and DOES 1-10, inclusive

Defendants.

CASE NO.:

COMPLAINT FOR DAMAGES

- 1) **Violation of Civil Rights
(42 U.S.C. § 1983)
(Based on 8th Amendment Right to be
Free of Cruel and Unusual
Punishment)**
- 2) **Violation of Civil Rights
(42 U.S.C. § 1983)
(Based on 4th Amendment Right to be
Free of Illegal Search and Seizure)**
- 3) **Violation of Civil Rights
(42 U.S.C. § 1983)
(Based on 1st Amendment Retaliation)**
- 4) **Sexual Assault and Battery**
- 5) **Intentional Infliction of Emotional
Distress**
- 6) **Negligence**
- 7) **Negligent Infliction of Emotional
Distress**

DEMAND FOR JURY TRIAL

1. This complaint concerns the abuse of power by Defendant, and former Correctional Officer DEMITA PINCHBACK (hereinafter "PINCHBACK"), and specifically, PINCHBACK'S sexual assault and sexual abuse of Plaintiff DEREK MATTHEWS (hereinafter "MATTHEWS"), while he was incarcerated and under her care and control, and the subsequent ratification and tacit acquiescence to PINCHBACK'S unconstitutional acts by California Department of Corrections and Rehabilitation (hereinafter "CDCR") and/or California Prison Industry Authority (hereinafter "CAL PIA") supervisors, including WARDEN JEROME PRICE (hereinafter "PRICE"), OFFICER B. SYSMOBATH (hereinafter "SYSMOBATH"), and OFFICER A. TOUT (hereinafter "Tout") and DOES 1-10, inclusive, which occurred during a continuous time period beginning with the date of PINCHBACK'S sexual assault of DEREK MATTHEWS, and up to and including the date in which PINCHBACK was terminated from the CDCR and/or CAL PIA, which occurred on or around October 15, 2015.

2. Jurisdiction is vested in this court under 28 U.S.C. § 1343(3)-(4) for violations of the 1871 Civil Rights Enforcement Act, as amended, including 42 U.S.C. § 1983 and 28 U.S.C. § 1331.

4. At all relevant times mentioned herein, Plaintiff DEREK MATTHEWS was incarcerated at the Deuel Vocational Institution (hereinafter "Deuel"), located at 23500 Kasson Road, in the city of Tracy, in the unincorporated County of San Joaquin and in the State of California.

PINCHBACK resided in the County of San Joaquin and was employed by CDCR and/or CAL PIA in the position of Correctional Officer and stationed at Deuel. During all times mentioned herein, PINCHBACK was acting under color and pretense of law, and under color of the statutes, ordinances, regulations, policies, practices, customs, and usages of the CDCR and/or CAL PIA, and was acting within the course and scope of her employment with the CDCR and/or CAL PIA.

6. Upon information and belief, at all times relevant herein, PRICE resided in the County of San Joaquin and was employed by CDCR in the position of Warden and stationed at Deuel. During all times mentioned herein, PRICE was acting under color and pretense of law, and under color of the statutes, ordinances, regulations, policies, practices, customs, and usages of the CDCR, and was acting within the course and scope of his employment with the CDCR.

7. Upon information and belief, at all times relevant herein, Defendant OFFICER B. SYSMOBATH (hereinafter "SYSMOBATH") resided in the County of San Joaquin and was employed by CDCR in the position of Correctional Officer at Deuel. During all times mentioned herein, SYSMOBATH was acting under color and pretense of law, and under color of the statutes, ordinances, regulations, policies, practices, customs, and usages of the CDCR, and was acting within the course and scope of his employment with the CDCR.

8. Upon information and belief, at all times relevant herein, Defendant OFFICER A. TOUT (hereinafter "TOUT") resided in the County of San Joaquin and was employed by CDCR in the position of Correctional Officer at Deuel. During all times mentioned herein, TOUT was acting under color and pretense of law, and under color of the statutes, ordinances, regulations, policies, practices, customs, and usages of the CDCR, and was acting within the course and scope of her employment with the CDCR.

9. Plaintiff is informed, believes, and thereupon alleges that the CDCR

1 and CAL PIA is, and at all relevant times herein was, a state agency or political
2 subdivision organized and existing under the laws of the State of California.

3 10. Plaintiff is unaware of the true names and capacities of those
4 Defendants sued herein as DOES 1 through 10 inclusive, each of whom may have
5 acted in a supervisory capacity at the CDCR and/or CAL PIA, and therefore sues
6 these Defendants using fictitious names. Plaintiff will amend this complaint to
7 allege the DOES' true names and capacities when that information becomes known.
8 Plaintiff is informed and believes and, on that basis, alleges that each of these
9 fictitiously named Defendants are legally responsible in some manner for the
10 actions and inactions alleged herein and that the injuries suffered by Plaintiff as
11 alleged throughout this complaint were proximately caused by these actions and
12 inactions. Plaintiff further alleges, based upon information and belief, that each
13 Defendant sued herein was acting as the agent or employee of each of the other
14 Defendants, and in doing the acts alleged herein was acting within the course and
15 scope of such agency and/or employment, and/or aided, abetted, cooperated with,
16 and/or conspired with one another to do the acts alleged herein.

17 11. At all relevant times mentioned herein supervisory defendant DOES 1
18 through 10, inclusive, were residents of San Joaquin County and/or business or
19 corporate entities incorporated in and/or doing business in the State of California
20 by virtue of the laws of the State of California.

21 12. Each Defendant is the agent, servant and/or employee of the other
22 Defendants and each Defendant was acting within the course and scope of his,
23 her, or its authority as an agent, servant, and/or employee of the other Defendants.
24 Defendants, and each of them, are individuals, corporations, partnerships, and
25 other entities which engaged in, joined in, and conspired with the other
26 wrongdoers in carrying out the tortious and unlawful activities described in this
27 complaint, and Defendants, and each of them, ratified the acts of the other
28

Defendants as described in this Complaint.

13. Each of the individual Defendants sued herein is sued in his or her individual and personal capacity

EXHAUSTION OF ADMINISTRATIVE REMEDIES

14. From October 15, 2015, until May 19, 2021, DEREK MATTHEWS was involved in the process of exhausting his administrative remedies with the period and manner prescribed by the CDCR. DEREK MATTHEW'S administrative remedies were fully and finally exhausted on May 19, 2021, when he received correspondence from CDCR titled "Claimant Appeal Claims Decision Response" and it was concluded that "time expired" with respect to filing an administrative appeal.

15. Administrative remedies were unavailable to DEREK MATTHEWS from October 15, 2015, through January 28, 2016, due to being placed in administrative segregation.

16. Administrative remedies were rendered unavailable to MATTHEWS as he feared retaliation for reporting PINCHBACK'S abuse as she said if he reported her, she was going to lie and tell prison officials that MATTHEWS raped her, when in fact MATTHEWS was the victim. Moreover, Lieutenant Huff intimidated MATTHEWS when he told him, "You know what happens to men in prison who rape women" because MATTHEWS knew PINCHBACK would do everything she could to portray herself as the victim. Lieutenant Huff made this threat to intimidate MATTHEWS in order to prevent him from pursuing administrative remedies.

17. After being released from administrative segregation, MATTHEWS submitted his grievance, however, he was informed that he needed to submit his claim on or by November 14, 2015, to comply with the 30-calendar day requirement set forth in the regulations, which he was not able to do because he was in administrative segregation.

18. DEREK MATTHEWS fully exhausted his administrative remedies prior

1 to the filing of this lawsuit.

2 **FACTS COMMON TO ALL CAUSES OF ACTION**

3 19. This Complaint concerns the sexual assault, battery, abuse of power,
4 intimidation, and harassment of Plaintiff DEREK MATTHEWS, and tacit
5 acquiescence to, and reckless disregard of the unconstitutional activities of
6 PINCHBACK by TOUT, SYSMOBATH, PRICE and DOEs 1-10, inclusive
7 (collectively "Supervisory Defendants"), which began in or around the Month of
8 May 2015 and carried on through on or about October 2015, when Defendant
9 PINCHBACK, was employed at Deuel located at 23500 Kasson Road, in the city
10 of Tracy, in the unincorporated County of San Joaquin and in the State of California.

11 20. At all times referenced herein, while at Deuel, DEREK MATTHEWS
12 was within the custody, care, supervision, and control of the CDCR and/or CAL
13 PIA, and Defendants PRICE, PINCHBACK, SYSMOBATH, TOUT, and other
14 heretofore unknown Officers employed by CDCR and/or CAL PIA, or Deuel.

15 21. At all times referenced herein, while at Deuel, DEREK
16 MATTHEWS was wearing department issued clothing indicating his status as a
17 prisoner. He was physically restrained to Deuel.

18 22. Throughout the acts and omissions described herein, PRICE was the
19 acting Warden of Deuel.

20 23. Throughout the acts and omissions described herein, PINCHBACK
21 wearing her department issued uniform, with badge and identification plate plainly
22 visible, and was armed with her department issued pepper spray, baton,
23 handcuffs, flashlight, and police radio.

24 24. Throughout the acts and omissions described herein, SYSMOBATH
25 wearing his department issued uniform, with badge and identification plate plainly
26 visible, and was armed with his department issued pepper spray, baton,
27 handcuffs, flashlight, and police radio.
28

25. Throughout the acts and omissions described herein, TOUT wearing her department issued uniform, with badge and identification plate plainly visible, and was armed with her department issued pepper spray, baton, handcuffs, flashlight, and police radio.

Grooming by PINCHBACK

26. Prior to May 2015, another inmate at the Deuel had complained of PINCHBACK'S sexual misconduct. However, on information and belief, PINCHBACK was in charge of the investigation and made sure the complaint backfired. Indeed, PINCHBACK disciplined the complaining inmate and PINCHBACK forced MATTHEWS to write the disciplinary report as part of the grooming process. This way PINCHBACK sent a clear message to MATTHEWS that if he had complained about her actions, such a complaint would backfire. Because the inmate complained about sexual misconduct by PINCHBACK, PRICE knew or should have known about this previous allegation of sexual misconduct involving PINCHBACK because the warden has a duty to review all complaints.

Sexual Abuse of MATTHEWS

27. From about May 2015 through October 2015, DEREK MATTHEWS, was the victim of sexual abuse and sexual assault inflicted by DEMITA PINCHBACK, including, but not limited to, being coerced and manipulated to perform various sexual acts on multiple occasions as she used her power as prison staff to silence and control DEREK MATTHEWS with threats and promises regarding extra privileges, increased inmate work hours and pay, and hiring an attorney to get him out of prison.

28. DEREK MATTHEWS had been previously warned by Correctional Officer Albertson to stay away from PINCHBACK. MATTHEWS was reluctant to work with PINCHBACK and her inmate crew, however, he was persuaded by PINCHBACK to believe that he had nothing to worry about. PINCHBACK assigned MATTHEWS to clean an office, and every time she came to check on him, she asked

1 him a sexual question, such as “When was the last time you had some pussy?” or “How
2 big is your dick?” and “Can I see it?” PINCHBACK began to seduce and manipulate
3 MATTHEWS into performing oral sex on her, against his will and that he detested.
4 PINCHBACK made it clear that if anyone found out about it, she would make his life
5 miserable and blame MATTHEWS for raping and seducing her, when in fact it was the
6 other way around. MATTHEWS was and felt trapped, and belittled. PINCHBACK
7 played mind games with MATTHEWS in order to manipulate him: she would pit him
8 against other inmates, embarrass him in front of other inmates, gas-light him and ignore
9 him for days. When PINCHBACK had successfully worn down and terrified
10 MATTHEWS to his lowest point mentally, she would completely change her attitude,
11 and demand oral sex from him, and when the oral sex did not satisfy her needs, she
12 would demand intercourse.

13 29. During the various rapes, PINCHBACK manipulated and coerced
14 MATTHEWS by telling him that she really cared about him and his life. She assured
15 him that she was working on getting him a lawyer to help him get out of prison and led
16 him to believe that he had a chance at freedom. However, subsequently, whenever
17 MATTHEWS asked PINCHBACK about these comments, she became belligerent and
18 negative, and told him to do as he was told. This was a constant pattern.

19 30. After manipulating and forcing MATTHEWS to perform sex acts on her,
20 PINCHBACK turned cold and verbally abused MATTHEWS for days. This led
21 MATTHEWS down a deep, dark path of confusion and depression.

22 31. One day, MATTHEWS submitted a medical request expressing concern
23 of discomfort when he urinated, fearing he had received a sexually transmitted disease.
24 After telling PINCHBACK he did so, she broke into a furious tirade of profanity laced
25 insults directed at MATTHEWS, followed by threats of reporting him for rape.
26 MATTHEWS was terrified of the threat of being accused of rape inside prison,
27 reasonably believing that no one would believe that, in actuality, he was the victim.
28

PINCHBACK used her position of power and control as a prison correctional officer to gratify her own sexual desires by sexually abusing, assaulting, harassing, and battering MATTHEWS.

32. On or about October 15, 2015, a secondary prison employee witnessed PINCHBACK sexually abusing and sexually assaulting MATTHEWS, and immediately reported the sexual misconduct to prison authorities, causing PINCHBACK to flee the Deuel prison grounds, throwing her CDCR issued keys in the parking lot.

Retaliation Against MATTHEWS for His Complaints

33. After the sexual assault of MATTHEWS was reported, MATTHEWS was treated like the perpetrator. Indeed, MATTHEWS was detained and questioned by the Investigative Services Unit (“I.S.U.”), including, but not limited to, Lieutenant L.D. Huff and Sergeant C. Jackson, during which time MATTHEWS was subject to a relentless, intimidating, accusatory, and unconstitutional interrogation by the questioning officers.

34. The questioning officers stated to MATTHEWS that PINCHBACK told them she had been raped by MATTHEWS, implying MATTHEWS was a suspect and not a victim, causing MATTHEWS to be terrified and confused.

35. Because of the accusations the questioning officers were throwing at MATTHEWS, he told them, “If that is what she said, I need an attorney,” however MATTHEWS request to exercise his constitutional right to legal representation was ignored and the interrogation continued. At a subsequent interrogation, on or around October 18, 2015, MATTHEWS again attempted to exercise his constitutional right to legal representation and again his request was ignored.

36. Although, throughout the interrogation MATTHEWS did his best to convey to the questioning officers that he did not rape anyone, Lieutenant Huff continued to scare and intimidate MATTHEWS by stating to him, “You know what

1 happens to men in prison who rape women.” Huff made this threat to intimidate
2 MATTHEWS in order to prevent him from pursuing administrative remedies.

3 37. At the conclusion of the interrogation that occurred on or around October
4 15, 2015, MATTHEWS was escorted to an isolated room in which he was put in
5 handcuffs and shackles and subjected to an unconstitutional search and seizure.
6 OFFICER B. SYSMOBATH forcefully pulled down MATTHEW’S underwear and
7 administered a procedure on MATTHEW’S penis. MATTHEWS was scared, confused,
8 and had no idea what SYSMOBATH was doing. SYSMOBATH moved forward with
9 the procedure and inserted an object into MATTHEWS’S penis, causing MATTHEWS
10 immense pain. The purported purpose of the procedure was to obtain PINCHBACK’S
11 DNA from MATTHEW’S body, albeit against his will.

12 38. SYSMOBATH performed the unlawful, unclothed, and invasive
13 procedure in the presence of a female officer, OFFICER TOUT, as TOUT held
14 MATTHEW’S arms down as SYSMOBATH performed the procedure. TOUT failed to
15 protect MATTHEW’S from the unlawful search and seizure.

16 39. MATTHEWS is informed and believes and thereupon alleges that any
17 medical exams, rape exams, and/or any other invasive medical procedures need to be
18 administered by trained licensed medical professionals, not correctional officers.
19 Further, all medical and rape exams must be performed in clean and sterile
20 environments.

21 40. Moreover, MATTHEWS was placed in administrative segregation and
22 remained there until an investigation against him for “overfamiliarity” was concluded.
23 Upon information and belief, there was no grievance process for “overfamiliarity” and
24 MATTHEWS was left in administrative segregation as retaliation for reporting sexual
25 misconduct of a prison official. MATTHEWS was then placed in administrative
26 segregation from October 15, 2015, through January 28, 2016.

27 41. Eventually, as a result of the sexual assault and sexual abuse of
28

1 MATTHEWS, an arrest warrant was issued for PINCHBACK, ultimately leading to her
2 arrest and conviction for sexual abuse of a state prisoner, by the Superior Court of
3 California, County of San Joaquin, Manteca Branch, Case Number: MAN-FE-CE-
4 2016-0004503, (*People v. DEMITA PINCHBACK*).

5 **Previous Complaints Against PINCHBACK**

6 42. Based upon information and belief, Defendant PRICE, as the Warden,
7 had knowledge that PINCHBACK was previously investigated by I.S.U. for criminal
8 and sexual misconduct involving a different state prisoner. Yet, PRICE failed to take
9 corrective actions that could have protected other inmates, including MATTHEWS,
10 from PINCHBACK's predatorial behavior.

11 **DAMAGES**

12 43. The above-described events continue to shock, embarrass, confuse, and
13 terrify MATTHEWS. MATTHEWS did not understand how a male could be sexually
14 assaulted and sexually abused by a female. Through spiritual counseling, MATTHEWS
15 now understands that rape is not defined by gender, but about the power that one exerts
16 over the one who is powerless, and in prison, correctional officers have nearly absolute
17 power of the well-being of the inmate. Yet, MATTHEWS, stills suffers from emotional
18 damages and distress from the sexual assault and sexual abuse to this day.

19 44. Prison mental health services denied MATTHEWS treatment as his
20 victimization was misrepresented to prison officials. His trauma is heightened by the
21 silence. He is alone and suffering daily. MATTHEWS struggles daily with how
22 PINCHBACK groomed him, manipulated him, coerced him, and sexually abused him.
23 The longer MATTHEWS goes without professional mental health services and living
24 under constant intimidation of reprisal, the more he sufferers from being sexual abused.

25 45. As a direct result proximate result of all of PINCHBACK'S actions
26 and the acts and omissions of SYSMOBATH, TOUT, PRICE, and unknown
27 defendants DOES 1-10, inclusive, DEREK MATTHEWS was wrongfully and
28

1 severely sexually assaulted, battered, abused, and harassed and sustained serious
 2 and permanent injuries which were exclusively caused by the above-described
 3 actions and omissions of the individual Defendants, DOES 1-10, inclusive,
 4 and other agents and employees of the CDCR and/or CAL PIA.

5 46. As a further direct and proximate cause of the sexual assault,
 6 battery, abuse, harassment and civil rights violations of DEREK MATTHEWS
 7 by PINCHBACK, SYSMOBATH, TOUT, PRICE, and unknown defendants
 8 DOES 1-10, inclusive, DEREK MATTHEWS has suffered, and continues to
 9 suffer, great mental and physical pain, suffering, anguish, fright, nervousness,
 10 anxiety, grief, shock, humiliation, indignity, embarrassment, anger, lack of
 11 motivation, rage, propensity for self-harm, self-degradation, shame, disgust,
 12 inability to articulate feeling and apprehension, all to his damage in a sum to be
 13 determined at trial.

14 **DEFENDANT JEROME PRICE**

15 47. Defendant JEROME PRICE was the Warden at Deuel at all relevant
 16 times. As Deuel Warden, he was responsible for the supervision and administration
 17 of the prison, including but not limited to the provision of safe custody and care of
 18 inmates. Defendant PRICE was responsible for supervising the Investigative
 19 Services Unit and ensuring that allegations of staff sexual misconduct were handled
 20 in a proper and timely manner. Defendant PRICE was also responsible for
 21 supervising custody staff who worked at Deuel, including Defendants
 22 PINCHBACK, SYSMOBATH, and TOUT.

23 48. As Deuel Warden, PRICE was required to be immediately notified
 24 about all allegations of sexual misconduct by staff. Department Operations Manual
 25 (“DOM”) § 54040.8.1.

26 49. Defendant PRICE was required to conduct an incident review of
 27 every allegation of staff sexual misconduct, even those that had not been
 28

1 substantiated. DOM § 54040.17.

2 50. In or around May 2015 to October 2015, Defendant PRICE failed in
3 his responsibilities to supervise allegations of sexual misconduct against staff,
4 ensure PREA compliance at Deuel, and protect Plaintiff DEREK MATTHEWS
5 from sexual abuse.

6 51. During his time as Warden of Deuel, on information and belief,
7 Defendant PRICE, was aware of at least one (1) incident of PINCHBACK'S sexual
8 misconduct. Yet, Defendant PRICE failed to find that case was substantiated, and no
9 criminal investigation resulted.

10 52. Despite the known risk of danger to Plaintiff MATTHEWS as a
11 victim of repeated sexual abuse at Deuel, Defendant PRICE failed to protect him
12 from sexual misconduct by staff, including Defendant PINCHBACK.

13 53. Defendant PRICE knew or should have known about the sexual
14 misconduct by Defendant PINCHBACK and failed to prevent further harm to
15 Plaintiff DEREK MATTHEWS.

16 54. By failing to intervene, Defendant PRICE condoned and encouraged
17 the sexual misconduct against Plaintiff DEREK MATTHEWS by Defendant
18 PINCHBACK.

19 55. Additionally, upon information and belief, Defendant PRICE failed to
20 timely refer the allegations of sexual misconduct against Defendant PINCHBACK
21 to CDCR's Office of Internal Affairs, as required by CDCR regulations and prison
22 policies.

23 56. Defendants, acting under color of law, as a matter of custom,
24 practice, or policy, failed to maintain adequate and proper training for subordinate
25 staff necessary to educate them as to the constitutional rights of prisoners.
26 Specifically, Defendants failed to prevent the consistent and systematic use of
27 harassment and assault, failed to take requisite measures to prevent and report
28

1 staff/prisoner rape, and failed to adequately supervise or control staff.

2 57. Even more egregious, on information and belief, DEREK
3 MATTHEWS was not the only inmate that was sexually assaulted, abused,
4 harassed and/or battered by PINCHBACK while confined at Deuel and prior to
5 the sexual assault of DEREK MATTHEWS as alleged herein, PINCHBACK
6 sexually assaulted and/or battered other inmates and had established a practice of
7 such behavior prior to the time in which DEREK MATTHEWS was
8 assaulted and abused. Upon information and belief, the nature and extent of
9 PINCHBACK'S sexual misconduct was known to Warden PRICE and
10 unknown supervisory defendants DOES 1-10, who acted in a supervisory
11 capacity within the Deuel both before and after the sexual assault and abuse
12 described herein against DEREK MATTHEWS, and were fully aware of
13 PINCHBACK'S unconstitutional activities both before and after the sexual
14 assault described herein against DEREK MATTHEWS, yet failed to take any
15 actions to terminate, remedy, prevent and/or redress PINCHBACK'S
16 unconstitutional activities, and thereby made possible PINCHBACK'S
17 unconstitutional actions in a manner that showed reckless and callous
18 indifference to the constitutional deprivations and ensuing intimidation of
19 DEREK MATTHEWS.

20 **FOR THE FIRST CAUSE OF ACTION**

21
22 **(By PLAINTIFF Against PINCHBACK, PRICE, and DOES 1-10**
23 **for Violations of Civil Rights [42 U.S.C. § 1983])**
24 **(Based 8th Amendment Right to be Free of Cruel and Unusual Punishment)**

25 58. Plaintiff DEREK MATTHEWS hereby restates and incorporates
26 by reference the foregoing paragraphs of this complaint.

27 59. This cause of action is to redress the deprivation, under color
28

of statute, ordinance, regulation, policy, custom, practice or usage of rights, privileges, and immunities secured to DEREK MATTHEWS by the Eighth Amendment to the United States Constitution.

60. At all times mentioned herein, Defendant PINCHBACK and DOES 1-10, inclusive, were employed by the CDCR and/or CAL PIA in the position of Correctional Officer and stationed at Deuel. CDCR and/or CAL PIA provided PINCHBACK with an official badge and identification cards which designated and described her as an agent and employee of CDCR and/or CAL PIA and Deuel.

61. During all times mentioned herein, OFFICER PINCHBACK acted under color and pretense of law, and under color of the statutes, ordinances, regulations, policies, practices, customs, and usages of the CDCR and/or CAL PIA, and in so doing, deprived DEREK MATTHEWS of the rights, privileges, and immunities secured to him by the Eighth Amendment to the United States Constitution and the laws of the United States

62. During all times mentioned herein, OFFICER PINCHBACK was acting in the course and scope of her employment with CDCR and/or CAL PIA and Deuel.

63. During all times mentioned herein, PINCHBACK'S conduct toward DEREK MATTHEWS was cruel, unusual, malicious, sadistic, offensive to human dignity, sexually abusive, sexually harassing, without penological justification and for her own gratification, thereby depriving DEREK MATTHEWS of the rights, privileges, and immunities secured to him by the Eighth Amendment to the United States Constitution and the laws of the United States.

64. OFFICER PINCHBACK, sexually assaulted, battered, abused, harassed, and injured DEREK MATTHEWS, as previously described, all of

1 which constituted unjustifiable, unreasonable, and unlawful acts of sexual
2 misconduct in violation of and with deliberate indifference to DEREK
3 MATTHEWS's constitutional right to be free from cruel and unusual
4 punishment.

5 65. Upon information and belief, the nature and extent of OFFICER
6 PINCHBACK'S sexual misconduct was known to Warden JEROME PRICE
7 and unknown supervisory defendants DOES 1-10, who acted in a supervisory
8 capacity within the Deuel both before and after the sexual assault described
9 herein against DEREK MATTHEWS, and were fully aware of
10 PINCHBACK'S unconstitutional activities both before and after the sexual
11 assault described herein against DEREK MATTHEWS, yet failed to take any
12 actions to terminate, remedy, prevent, and/or redress PINCHBACK'S
13 unconstitutional activities, and thereby made possible PINCHBACK'S
14 unconstitutional actions in a manner that showed a reckless and callous
15 indifference to the constitutional deprivations and ensuing intimidation of
16 DEREK MATTHEWS.

17 66. The above acts and omissions of the Defendants, and each of
18 them, was undertaken while under color of state law and resulted in the
19 violation of DEREK MATTHEW'S constitutional rights, as stated herein.

20 67. DEREK MATTHEWS had the right to be free from unlawful cruel
21 and unusual punishment, unlawful use of force unlawful sexual assault, battery,
22 abuse and/or harassment. All of these rights and privileges are secured to
23 MATTHEWS by the provisions of the Eighth Amendment to the United States
24 Constitution, and by 42 U.S.C. § 1983. All of these interests were implicated
25 by the wrongful conduct of the OFFICER PINCHBACK which proximately
26 caused severe injuries to DEREK MATTHEWS, as described herein.

27 68. The individual defendants named herein, and DOES 1-10,
28

1 inclusive, separately and in concert, acted willfully, knowingly, with reckless
2 disregard and deliberate indifference to the known consequences of their acts
3 and omissions, and purposefully with the intent to deprive DEREK
4 MATTHEWS of his federally protected rights and privileges, and did in fact
5 violate those rights and privileges, entitling DEREK MATTHEWS to punitive
6 and exemplary damages in an amount to be proven at the trial of this matter.

7 69. As a direct and proximate result of the aforementioned
8 constitutional violations DEREK MATTHEWS was sexually assaulted,
9 battered, abused and harassed and has suffered, and continues to suffer, great
10 mental and physical pain, suffering, anguish, fright, nervousness, anxiety, grief,
11 shock, humiliation, indignity, embarrassment, anger, lack of motivation, rage,
12 propensity for self-harm, self-degradation, shame, disgust, inability to articulate
13 feelings and apprehension, all to his damage in a sum to be determined at trial.

14 70. Additionally, as a proximate cause of the sexual assault, battery,
15 abuse, and harassment by PINCHBACK, DEREK MATTHEWS has treated and
16 will continue to treat with mental health providers in an amount to be proven at
17 trial.

18 71. DEREK MATTHEWS has been forced to incur substantial
19 amounts for attorneys' fees, investigation expenses, and other expenses in the
20 prosecution of the above articulated constitutional violations. DEREK
21 MATTHEWS is entitled to and hereby demands costs, attorneys' fees., and
22 expenses pursuant to 42 U.S.C § 1988.

23 **FOR THE SECOND CAUSE OF ACTION**

24
25 **(By PLAINTIFF Against SYSMOBATH, TOUT and DOES 1-10**

26 **for Violations of Civil Rights [42 U.S.C. § 1983])**

27 **(Based on Fourth Amendment Unreasonable Search and Seizure)**

28 72. Plaintiff DEREK MATTHEWS hereby restates and incorporates

1 by reference the foregoing paragraphs of this complaint.

2 73. This cause of action is set forth herein to redress the deprivation,
3 under color of statute, ordinance, regulation, policy, custom, practice, and/or usage,
4 of rights, privileges, and/or immunities secured to Plaintiff by the Fourth and/or
5 Fourteenth Amendments to the Constitution of the United States, including, but not
6 limited to, Plaintiff's right to be free from unreasonable governmental searches and
7 seizures.

8 74. At all times mentioned herein, Defendants SYSMOBATH, TOUT
9 and Unknown Defendant DOES 1-10 were employed by the CDCR in the
10 position of Correctional Officer and stationed at Deuel. CDCR provided
11 SYSMOBATH AND TOUT with an official badge and identification cards
12 which designated and described them as agents and employees of CDCR and
13 Deuel.

14 75. During all times mentioned herein, Defendants SYSMOBATH and
15 TOUT acted under color and pretense of law, and under color of the statutes,
16 ordinances, regulations, policies, practices, customs, and usages of the CDCR,
17 and in so doing, deprived DEREK MATTHEWS of the rights, privileges, and
18 immunities secured to him by the Fourth Amendment to the United States
19 Constitution and the laws of the United States.

20 76. During all times mentioned herein, Defendants SYSMOBATH and
21 TOUT were acting in the course and scope of their employment with CDCR
22 and/or Deuel.

23 77. After being interrogated by ISU Officers regarding
24 PINCHBACK'S sexual assault and abuse, DEREK MATTHEWS was escorted
25 to an isolated room in which he was put in handcuffs and shackles and subjected
26 to an unconstitutional search and seizure OFFICER B. SYSMOBATH forcefully
27 pulled down MATTHEW'S underwear and administered a procedure on
28

1 MATTHEW's penis. MATTHEWS was scared, confused, and had no idea what
2 SYSMOBATH was doing. SYSMOBATH moved forward with the procedure and
3 inserted an object into MATTHEWS'S penis, causing MATTHEWS immense pain.
4 The purported purpose of the procedure was to obtain PINCHBACK'S DNA from
5 MATTHEW'S penis, albeit against his will.

6 78. SYSMOBATH performed the unlawful, unclothed, and invasive
7 procedure in the presence of a female officer, OFFICER TOUT, as TOUT held
8 MATTHEW's arms down as SYSMOBATH collected evidence from
9 MATTHEW'S penis.

10 79. At all times during the aforementioned events, MATTHEWS was in
11 the custody, care, supervision, and control of Defendants SYSMOBATH and
12 TOUT. Furthermore, at all times referenced herein, MATTHEWS was not free to
13 leave Deuel.

14 80. Throughout the acts and omissions described herein, Defendants
15 SYSMOBATH and TOUT, were wearing their department issued uniforms, with
16 badges and identification plates plainly visible, were armed with department issued
17 firearms, and were in possession of department issued police radios. Defendants
18 SYSMOBATH and TOUT used their positions of authority to place MATTHEWS
19 in unreasonable duress and fear.

20 81. DEREK MATTHEWS suffered severe emotional and physical
21 injuries as a direct and proximate result of the unconstitutional search and seizure of
22 his person, which was a direct and proximate result of the sexual assault, abuse,
23 battery, and harassment, perpetrated upon his person by PINCHBACK.
24 MATTHEWS suffers, including, but not limited to, severe emotional distress, pain
25 and suffering, embarrassment, shame, and loss of privacy.

26 82. At no time during the course of these events did MATTHEWS
27 consent to the sexual abuse, assault, harassment, and battery by PINCHBACK, and
28

at no time during the course of these events did MATTHEWS consent to the unconstitutional search and seizure of his person by SYSMOBATH and TOUT.

83. Based upon all of the foregoing facts, as alleged in this Complaint, SYSMOBATH and TOUT unreasonably detained and seized MATTHEW'S person, as previously described, all of which constituted an unreasonable and unlawful detention in violation of and with deliberate indifference to MATTHEW'S constitutional right to be free from unreasonable seizures and his right to be free from unlawful detentions.

84. The individual defendants named herein, separately and in concert, acted willfully, knowingly, with reckless disregard and deliberate indifference to the known consequences of their acts and omissions, and purposefully with the intent to deprive MATTHEWS of his federally protected rights and privileges, and did in fact violate those rights and privileges, entitling MATTHEWS to punitive and exemplary damages in an amount to be proven at the trial of this matter.

85. As a direct, legal, and proximate result of the acts of Defendants, and each of them, as set forth herein, MATTHEWS suffered severe emotional distress which has caused MATTHEWS to sustain severe, serious, and permanent injuries to his mind and body, and economic and non-economic damages in an amount to be shown according to proof and within the jurisdiction of this Court.

86. As a direct and proximate result of the aforementioned acts, MATTHEWS has suffered, and continues to suffer great pain of the mind and body, shock, emotional distress, physical manifestations of emotional distress, panic, depression, anxiety, embarrassment, loss of self-esteem, disgrace, humiliation, and loss of enjoyment of life, all to his damage in a sum to be determined at trial.

87. As a further result of the acts herein alleged, Plaintiff will incur expenses for medical and psychological treatment, therapy, and/or counseling. Additionally, MATTHEWS will incur substantial amounts for attorneys' fees,

1 investigation expenses, and other expenses in the prosecution of the above
2 articulated violations. As an additional result of the conduct of each of these
3 defendants, MATTHEWS has lost past and future earnings and/or earning capacity
4 in an amount to be determined according to proof at trial.

5 88. Plaintiff is entitled to and hereby demands costs, attorneys fees, and
6 expenses pursuant to 42 U.S.C. § 1988.

7 **FOR THE THIRD CAUSE OF ACTION**

8 **By PLAINTIFF Against PRICE, SYSMOBATH, TOUT, and DOES 1-10 for**
9 **Violations of Civil Rights [42 U.S.C. § 1983])**
10 **(Based on First Amendment Retaliation)**

11 89. Plaintiff DEREK MATTHEWS restates and incorporates by
12 reference the foregoing paragraphs of this Complaint as if set forth in full at this
13 point.

14 90. This cause of action is set forth herein to redress the deprivation,
15 under color of statute, ordinance, regulation, policy, custom, practice, and/or usage,
16 of rights, privileges, and/or immunities secured to Plaintiff by the First and/or
17 Fourteenth Amendments to the Constitution of the United States, including, but not
18 limited to, Plaintiff's right to seek redress of grievances from prison authorities and
19 as well as right of meaning access to the courts.

20 91. At all times mentioned herein, Defendants SYSMOBATH, TOUT,
21 PRICE and Unknown Defendant DOES 1-10 were employed by the CDCR and/or
22 CAL PIA in the positions of Correctional Officers or Warden and stationed at
23 Deuel. CDCR and/or CAL PIA provided SYSMOBATH, TOUT and PRICE
24 with official badges and identification cards which designated and described
25 them as agents and employees of CDCR and Deuel.

26 92. During all times mentioned herein, Defendants SYSMOBATH,
27 TOUT, and PRICE acted under color and pretense of law, and under color of the
28

1 statutes, ordinances, regulations, policies, practices, customs, and usages of the
2 CDCR and/or CAL PIA, and in so doing, deprived DEREK MATTHEWS of
3 the rights, privileges, and immunities secured to him by the First Amendment to
4 the United States Constitution and the laws of the United States.

5 93. During all times mentioned herein, Defendants SYSMOBATH,
6 TOUT, and PRICE were acting in the course and scope of their employment with
7 CDCR and/or CAL PIA and Deuel.

8 94. DEREK MATTHEWS was detained and questioned by the
9 Investigative Services Unit ("I.S.U."), including, but not limited to, Lieutenant L.D.
10 Huff and Sergeant C. Jackson, where MATTHEWS was subject to a relentless,
11 intimidating, accusatory, and unconstitutional interrogation by the questioning
12 officers.

13 95. The questioning officers stated to MATTHEWS that PINCHBACK
14 told them she had been raped by MATTHEWS, implying MATTHEWS was a
15 suspect and not a victim, causing MATTHEWS to be very terrified and confused.

16 96. Because of the accusations the questioning officers were throwing at
17 MATTHEWS, he told them, "If that is what she said, I need an attorney," however
18 MATTHEWS request to exercise his constitutional right to legal representation was
19 ignored and the interrogation continued. At a subsequent interrogation, on or
20 around October 18, 2015, MATTHEWS again attempted to exercise his
21 constitutional right to legal representation and again his request was ignored.

22 97. Although throughout the interrogation MATTHEWS did his best to
23 convey to the questioning officers that he did not rape anyone, Lieutenant Huff
24 continued to scare and intimidate MATTHEWS but stating to him, "You know what
25 happens to men in prison who rape women." Huff made this threat to intimidate
26 MATTHEWS in order to prevent him from pursuing administrative remedies.

27 98. At the conclusion of the interrogation that occurred on or around
28

1 October 15, 2015, MATTHEWS was escorted to an isolated room in which he was
2 put in handcuffs and shackles and subjected to an unconstitutional search and
3 seizure. OFFICER B. SYSMOBATH forcefully pulled down MATTHEW'S
4 underwear and administered a procedure on MATTHEW's penis. MATTHEWS
5 was scared, confused, and had no idea what SYSMOBATH was doing.
6 SYSMOBATH moved forward with the procedure and inserted an object into
7 MATTHEWS'S penis, causing MATTHEWS immense pain. The purpose of the
8 procedure was to obtain PINCHBACK'S DNA from MATTHEW'S body, albeit
9 against his will.

10 99. SYSMOBATH performed the unlawful, unclothed, and invasive
11 procedure in the presence of a female officer, OFFICER TOUT, as TOUT held
12 MATTHEW's arms down as SYSMOBATH performed the procedure. TOUT failed
13 to protect MATTHEW's from the unlawful search and seizure.

14 100. MATTHEWS is informed and believes and thereupon alleges that
15 any medical exams, rape exams, and/or any other invasive medical procedures need
16 to be administered by trained licensed medical professionals, not correctional
17 officers. Further, all medical and rape exams must be performed in clean and sterile
18 environment

19 101. Moreover, MATTHEWS was placed in administrative segregation
20 and remained there until an investigation against him for "overfamiliarity" was
21 concluded. Upon information and belief, there was no grievance process for
22 "overfamiliarity" and MATTHEWS was left in administrative segregation as
23 retaliation for reporting sexual misconduct of a prison official. MATTHEWS was
24 left in administrative segregation from October 15, 2015, through January 28, 2016.

25 102. At all times during the aforementioned events, MATTHEWS was in
26 the custody, care, supervision, and control of Defendants SYSMOBATH, TOUT,
27 PRICE, and DOES 1-10, inclusive.
28

1 103. Throughout the acts and omissions described herein, Defendants
2 SYSMOBATH and TOUT, were wearing their department issued uniforms, with
3 badges and identification plates plainly visible, were armed with department issued
4 firearms, and were in possession of department issued police radios. Defendants
5 SYSMOBATH and TOUT used their positions of authority to take adverse action
6 against MATTHEWS for reporting PINCHBACK'S sexual abuse, assault, battery,
7 and harassment of MATTHEWS and seeking redress of grievances from prison
8 authorities.

9 104. Because MATTHEWS sought redress of grievances from prison
10 authorities, Defendants SYSMOBATH, TOUT, PRICE, and DOES 1-10, inclusive,
11 actions and/or omissions were designed to punish MATTHEWS and deter him from
12 reporting PINCHBACK's sexual misconduct.

13 105. Because MATTHEWS was placed in administrative segregation and
14 remained there until an investigation against him for "overfamiliarity" was
15 concluded, MATTHEWS was unable to exercise his First Amendment Right to file
16 an administrative complaint and thereby exhaust his administrative remedies to then
17 have meaningful access to the courts. Upon information and belief, there was no
18 grievance process for "overfamiliarity" and MATTHEWS was left in administrative
19 segregation as retaliation for reporting sexual misconduct of a prison official.
20 MATTHEWS was left in administrative segregation from October 15, 2015,
21 through January 28, 2016

22 106. Based upon all of the foregoing facts, as alleged in this Complaint,
23 the acts, and omissions, of Defendants SYSMOBATH, TOUT, PRICE, and DOES
24 1-10, inclusive, were aimed at unreasonably retaliating against MATTHEWS
25 without reasonably advancing any legitimate correctional goal and resulted in
26 unreasonable and unlawful retaliation in violation of and with deliberate
27 indifference to MATTHEW'S constitutional right to be free from retaliation.
28

1 107. DEREK MATTHEWS suffered severe emotional and physical
2 injuries as a direct and proximate result of the unconstitutional search and seizure of
3 his person, which was a direct and proximate result of the sexual assault, abuse,
4 battery, and harassment, perpetrated upon his person by PINCHBACK.
5 MATTHEWS suffers, including, but not limited to, severe emotional distress, pain
6 and suffering, embarrassment, shame, and loss of privacy.

7 108. The individual defendants named herein, separately and in concert,
8 acted willfully, knowingly, with reckless disregard and deliberate indifference to the
9 known consequences of their acts and omissions, and purposefully with the intent to
10 deprive MATTHEWS of his federally protected rights and privileges, and did in fact
11 violate those rights and privileges, entitling MATTHEWS to punitive and
12 exemplary damages in an amount to be proven at the trial of this matter.

13 109. As a direct, legal, and proximate result of the acts of Defendants, and
14 each of them, as set forth herein, MATTHEWS suffered severe emotional distress
15 which has caused MATTHEWS to sustain severe, serious, and permanent injuries to
16 his mind and body, and economic and non-economic damages in an amount to be
17 shown according to proof and within the jurisdiction of this Court

18 110. As a direct and proximate result of the aforementioned acts,
19 MATTHEWS has suffered, and continues to suffer great pain of the mind and body,
20 shock, emotional distress, physical manifestations of emotional distress, panic,
21 depression, anxiety, embarrassment, loss of self-esteem, disgrace, humiliation, and
22 loss of enjoyment of life, all to his damage in a sum to be determined at trial.

23 111. As a further result of the acts herein alleged, Plaintiff will incur
24 expenses for medical and psychological treatment, therapy, and/or counseling.
25 Additionally, MATTHEWS will incur substantial amounts for attorneys' fees,
26 investigation expenses, and other expenses in the prosecution of the above
27 articulated violations. As an additional result of the conduct of each of these
28

defendants, MATTHEWS has lost past and future earnings and/or earning capacity in an amount to be determined according to proof at trial.

112. Plaintiff is entitled to and hereby demands costs, attorneys fees, and expenses pursuant to 42 U.S.C. § 1988.

FOR THE FOURTH CAUSE OF ACTION

By PLAINTIFF Against PINCHBACK, SYSMOBATH, TOUT, and DOES 1-10

Sexual Assault and Battery

113. Plaintiff restates and incorporates by reference the foregoing paragraphs of this Complaint as if set forth in full at this point.

114. From about May 2015 through October 2015, DEREK MATTHEWS, was the victim of sexual abuse, assault, battery, and harassment, inflicted by DEMITA PINCHBACK, including, but not limited to, being coerced, manipulated and forced to perform various sexual acts on PINCHBACK on multiple occasions as she used her power as prison staff to silence and control DEREK MATTHEWS with threats and promises regarding extra privileges, increased inmate work hours and pay, and hiring an attorney to get him out of prison.

115. DEREK MATTHEWS had been previously warned by Correctional Officer Albertson to stay away from PINCHBACK. MATTHEWS was reluctant to work with PINCHBACK and her inmate crew, however, he was persuaded by PINCHBACK to believe that he had nothing to worry about. PINCHBACK assigned MATTHEWS to clean an office, and every time she came to check on him, she asked him a sexual question, such as “When was the last time you had some pussy?” or “How big is your dick?” and “Can I see it?” PINCHBACK began to seduce and manipulate MATTHEWS into performing oral sex on her, against his will and that he detested. PINCHBACK made it clear that if anyone found out about it, she would make his life miserable and blame MATTHEWS for raping and seducing her, when in fact it was the other way around. MATTHEWS was and felt trapped, and belittled. PINCHBACK

1 played mind games with MATTHEWS in order to manipulate him: she would pit him
2 against other inmates, embarrass him in front of other inmates, gas-light him and ignore
3 him for days. When PINCHBACK had successfully worn down and terrified
4 MATTHEWS to his lowest point mentally, she would completely change her attitude,
5 and demand oral sex from him, and when the oral sex did not satisfy her needs, she
6 would demand intercourse.

7 116. During the various rapes, PINCHBACK manipulated and coerced
8 MATTHEWS by telling him that she really cared about him and his life. She assured
9 him that she was working on getting him a lawyer to help him get out of prison and led
10 him to believe that he had a chance at freedom. However, subsequently, whenever
11 MATTHEWS asked PINCHBACK about these comments, she became belligerent and
12 negative, and told him to do as he was told. This was a constant pattern.

13 117. After manipulating and forcing MATTHEWS to perform sex acts on her,
14 PINCHBACK turned cold and verbally abused MATTHEWS for days. This led
15 MATTHEWS down a deep, dark path of confusion and depression.

16 118. One day, MATTHEWS submitted a medical request expressing concern
17 of discomfort when he urinated, fearing he had received a sexually transmitted disease.
18 After telling PINCHBACK he did so, she broke into a furious tirade of profanity laced
19 insults directed at MATTHEWS, followed by threats of reporting him for rape.
20 MATTHEWS was terrified of the threat of being accused of rape inside prison,
21 reasonably believing that no one would believe that, in actuality, he was the victim.
22 PINCHBACK used her position of power and control as a prison correctional officer to
23 gratify her own sexual desires by sexually abusing, assaulting, harassing, and battering
24 MATTHEWS.

25 119. On or about October 15, 2015, a secondary prison employee witnessed
26 PINCHBACK sexually abusing and sexually assaulting MATTHEWS, and
27 immediately reported the sexual misconduct to prison authorities, causing
28

PINCHBACK to flee the Deuel prison grounds, throwing her CDCR and/or CAL PIA issued keys in the parking lot.

120. After being interrogated by ISU Officers regarding PINCHBACK'S sexual assault and abuse, DEREK MATTHEWS was escorted to an isolated room where he was put in handcuffs and shackles and subjected to an unconstitutional search and seizure as OFFICER B. SYSMOBATH forcefully pulled down MATTHEW'S underwear and administered a procedure on MATTHEW's penis. MATTHEWS was scared, confused, and had no idea what SYSMOBATH was doing. While TOUT held MATTHEW'S hands down, SYSMOBATH performed the procedure and inserted an object into MATTHEWS'S penis, causing MATTHEWS immense pain. The purpose of the procedure was to obtain PINCHBACK'S DNA from MATTHEW'S penis, albeit against his will.

121. In doing the acts as alleged in this complaint, PINCHBACK intended to cause, and did cause, sexually offensive contact with Plaintiff's person by forcing MATTHEWS to orally copulate her and engage in sexual intercourse with her against his will.

122. In doing the acts as alleged in this complaint, SYSMOBATH and TOUT intended to cause, and did cause, sexually offensive contact with Plaintiff's penis when TOUT held MATTHEW'S hands down and SYSMOBATH inserted an object into MATTHEWS'S penis.

123. Plaintiff found Defendant PINCHBACK forcing him to perform oral copulation on her to be sexually offensive to his person and dignity.

124. Plaintiff found Defendant PINCHBACK forcing him to perform sexual intercourse with her to be sexually offensive to his person and dignity.

125. Plaintiff found Defendants SYSMOBATH and TOUT'S contact with

1 his penis to be sexually offensive to his person and dignity.

2 126. Plaintiff did not consent to the sexual touching, and, in fact,
3 repeatedly objected to Defendant PINCHBACK'S sexual advances and requests.

4 127. In committing the acts and/or omissions alleged, Defendant
5 PINCHBACK is guilty of malice, fraud, or oppression and, therefore, Plaintiff
6 seeks an award of punitive damages against Defendant PINCHBACK according to
7 proof at trial.

8 128. As a direct and proximate result of the acts and/or omissions of
9 Defendant PINCHBACK, SYSMOBATH, TOUT, PRICE, and DOES 1-10,
10 inclusive, Plaintiff suffered, and continues to suffer, great mental pain, physical
11 pain, emotional distress, suffering, anguish, anxiety, worry, shock, humiliation,
12 embarrassment, anger, depression, stress, uncertainty, loss of enjoyment of life, and
13 trouble sleeping, and will incur expenses for psychological treatment, therapy,
14 and/or counseling, all to his damage in a sum to be determined at trial.
15 Additionally, Plaintiff will incur substantial amounts for attorneys' fees,
16 investigation expenses, and other expenses in the prosecution of the above
17 articulated violations.
18

19 **FOR THE FIFTH CAUSE OF ACTION**

20 **By PLAINTIFF Against PINCHBACK, SYSMOBATH, TOUT, and DOES 1-10**

21 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

22 129. Plaintiff incorporates and realleges all previous allegations contained
23 in this Complaint as though fully set forth herein.
24

25 130. The acts and/or omissions of Defendants PINCHBACK,
26 SYSMOBATH, TOUT, and DOES 1-10, inclusive, as described herein was
27 intentional conduct of Defendants PINCHBACK, SYSMOBATH, TOUT, and
28 DOES 1-10, inclusive, including, but not limited to, the sexual battery, assault,

abuse, harassment, and retaliation, directed at Plaintiff by Defendants PINCHBACK, SYSMOBATH, TOUT, and DOE 1-10, inclusive, which caused Plaintiff to suffer severe emotional distress.

131. Such acts and/or omissions by Defendants PINCHBACK, SYSMOBATH, TOUT, and DOES 1-10, inclusive, were extreme and outrageous exceeding all bounds of decency and subjected Plaintiff to severe emotional distress.

132. Defendants PINCHBACK, SYSMOBATH, TOUT, and DOES 1-10, inclusive, engaged in the aforementioned outrageous conduct with the intent to cause Plaintiff to suffer emotional distress, or acted with reckless disregard of the probability that Plaintiff would suffer emotional distress, knowing that Plaintiff was present when the conduct occurred and was the target of such heinous conduct.

133. In committing the acts and/or omissions alleged, Defendants PINCHBACK, SYSMOBATH, TOUT, and DOES 1-10, inclusive, have been guilty of malice, fraud, or oppression and, therefore, Plaintiff seeks an award of punitive damages against Defendants, and each of them, according to proof at trial.

134. The acts and/or omissions of Defendants PINCHBACK, SYSMOBATH, TOUT, and DOES 1-10, inclusive, were substantial factors in causing Plaintiff to suffer, and continue to suffer, great mental pain, emotional distress, suffering, anguish, anxiety, worry, shock, humiliation, embarrassment, anger, depression, stress, uncertainty, loss of enjoyment of life, and trouble sleeping, and will incur expenses for psychological treatment, therapy, and/or counseling, all to his damage in a sum to be determined at trial. Additionally, Plaintiff will incur substantial amounts for attorneys' fees, investigation expenses, and other expenses in the prosecution of the above articulated violations.

///

///

FOR THE SIXTH CAUSE OF ACTION

By PLAINTIFF Against ALL DEFENDANTS and DOES 1-10

NEGLIGENCE

135. Plaintiff incorporates and realleges all previous allegations contained in this Complaint as though fully set forth herein.

136. Defendant PRICE and DOES 1-10, inclusive, owed MATTHEWS a duty of care as an inmate when he became the Warden at Deuel. Further, PRICE and DOES 1-10, inclusive, had a duty to supervise the performance of the staff of the prison and make sure that they did not violate Deuel policy.

137. PRICE and DOES 1-10, inclusive, breached his duty by failing to investigate PINCHBACK for sexually assaulting and abusing prison inmates when there was a previous allegation of sexual misconduct.

138. As an actual, proximate, legal, and foreseeable result of PRICE'S and DOES 1-10, inclusive, conduct, MATTHEWS was sexually abused, assaulted, battered, and harassed, and has suffered and continues to suffer significant injury, including but not limited to, great mental pain, physical pain, emotional distress, suffering, anguish, anxiety, worry, shock, humiliation, embarrassment, anger, depression, stress, uncertainty, loss of enjoyment of life, and trouble sleeping, and has incurred expenses for psychological treatment, therapy, and/or counseling, all to his damage in a sum to be determined at trial. Additionally, Plaintiff will incur substantial amounts for attorneys' fees, investigation expenses, and other expenses in the prosecution of the above articulated violations

139. Further, PRICE and DOES 1-10, inclusive, knowingly and willfully acted with malice and oppression and with the intent to harm MATTHEWS in a despicable manner. Therefore, MATTHEWS is entitled to an award of punitive damages for the purpose of punishing PRICE and DOES 1-10, inclusive, and

1 deterring them from such conduct in the future.

2 **FOR THE SEVENTH CAUSE OF ACTION**

3 **By PLAINTIFF Against ALL DEFENDANTS and DOES 1-10**

4 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

5 140. Plaintiff incorporates and realleges all previous allegations contained
6 in this Complaint as though fully set forth herein.

7 141. The above-described negligent conduct of Defendant PRICE, and
8 DOES 1-10, inclusive, including, but not limited to failing to investigate
9 PINCHBACK for sexually assaulting and abusing prison inmates when there was a
10 previous allegation of sexual misconduct, caused Plaintiff to suffer severe emotional
11 distress as set forth herein.

12 142. The acts and/or omissions of Defendant PRICE and DOES 1-10,
13 inclusive, were a substantial factor in causing Plaintiff to suffer, and continue to
14 suffer, great mental pain, physical pain, emotional distress, suffering, anguish,
15 anxiety, worry, shock, humiliation, embarrassment, anger, depression, stress,
16 uncertainty, loss of enjoyment of life, and trouble sleeping, and has incurred
17 expenses for psychological treatment, therapy, and/or counseling, all to his damage
18 in a sum to be determined at trial. Additionally, Plaintiff will incur substantial
19 amounts for attorneys' fees, investigation expenses, and other expenses in the
20 prosecution of the above articulated violations
21

22 **JURY DEMAND**

23
24 PLAINTIFF DEREK MATTHEWS hereby demands that a jury be
25 empaneled for the trial of this matter.

26 ///

27 ///

28 ///

PRAYER

WHEREFORE, PLAINTIFF DEREK MATTHEWS prays for judgment against Defendants as follows:

1. For general damages in an amount to be determined according to proof at trial;
2. For special damages in an amount to be determined according to proof at trial;
3. For costs of suit incurred herein;
4. For punitive damages against the individual Defendants in an amount to be determined according to proof at trial;
5. For attorneys' fees, investigation fees, and expert witness fees incurred herein;
6. For statutory damages as permitted by law; and
7. For such other and further relief as the Court deems just and proper.

DATED: July 27, 2022

Respectfully Submitted,

SOCAL JUSTICE LAW GROUP

By: /s/ Jennifer A. Bandlow
JENNIFER A. BANDLOW, ESQ.
GEORGE D. TOURKOW, ESQ.
Attorneys for Plaintiff